Toffoloni v. LFP Publishing Group, LLC Doc. 50 Att. 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

MAUREEN TOFFOLONI, as Administrarix and Personal Representative of the ESTATE OF NANCY E. BENOIT, Plaintiff, v. LFP PUBLISHING GROUP, LLC, d/b/a Hustler Magazine, MARK SAMANSKY, an Individual, and other distributors and sellers of, Hustler Magazine, as Defendants X, Y, and Z, Defendants.	)))))))))))))))))	CIVIL ACTION FILE NO. 1:08-CV-0421-TWT

STATEMENT OF MATERIAL FACTS AS TO
WHICH THERE IS NO GENUINE ISSUE TO BE TRIED

COMES NOW, Plaintiff, Maureen Toffoloni, as Administratrix and Personal Representative of the Estate of Nancy E. Benoit, through counsel and files this her Statement of Material Facts as to Which There is No Genuine Issue to be Tried with this Court as follows:

Dockets.Justia.com

(1)

Plaintiff is the personal representative of the Estate of Nancy E. Benoit, who died intestate in Fayette County, Georgia in June of 2007. *See* Verified Complaint ¶ 1.

(2)

Defendant LFP Publishing Group, LLC is the publisher of "Hustler Magazine." *See* Answer of Defendant LFP Publishing Group, LLC ¶ 2.

(3)

Defendant published nude and partially nude images (the "images") of Nancy E. Benoit in its "March 2008" edition. *See* Answer ¶ 8.

(4)

At no time has Defendant ever sought or obtained the permission of Nancy E. Benoit or the Estate of Nancy E. Benoit to publish for commercial purposes the images of Nancy E. Benoit. *See* Verified Complaint, Exhibits A, B, C, and D.

(5)

At no time has the Defendant ever compensated Nancy E. Benoit or the Estate of Nancy E. Benoit for the use, for commercial purposes, of the images of Nancy E. Benoit. *See* Verified Complaint, Exhibits A, B, C, and D.

Respectfully submitted October 16, 2009.

/s/ Richard P. Decker

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CERTIFICATE OF SERVICE

This is to certify that on October 16, 2009, I have electronically filed the foregoing Statement of Material Facts as to Which There is No Genuine Issue to be Tried with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorney(s) of record:

James Clifton Rawls, Esq.
S. Derek Bauer, Esq.
Barry J. Armstrong, Esq.

Darrell Jay Solomon, Esq.
Jeffrey F. Reina, Esq.
Paul J. Cambria, Esq.

and by placing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to:

William M. Feigenbaum, Esq.
Lipsitz, Green, Scime, Cambria, LLP
42 Delaware Avenue, Suite 120
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/s/ Richard P. Decker
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